

HOUSE BILL No. 1857

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-8; IC 11-8-2-8; IC 11-12-4-4.5; IC 20-12-3.5-7; IC 36-5-7-7; IC 36-8.

Synopsis: Public safety officers' survivors' benefits. Requires that the public employer of a public safety officer who dies in the line of duty provide and pay for health insurance coverage for the officer's surviving spouse and dependent children. Requires that the health insurance provided to a surviving spouse and dependent child must be equal in coverage to that offered to active public safety officers.

Effective: July 1, 2003.

Lawson L, Mahern, Alderman

January 23, 2003, read first time and referred to Committee on Labor and Employment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1857

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-8-2.2, AS AMENDED BY P.L.286-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 2.2. (a) As used in this section, "dependent"
4 means a natural child, stepchild, or adopted child of a public safety
5 employee who:

6 (1) is less than eighteen (18) years of age;

7 (2) is eighteen (18) years of age or older and physically or
8 mentally disabled (using disability guidelines established by the
9 Social Security Administration); or

10 (3) is at least eighteen (18) and less than twenty-three (23) years
11 of age and is enrolled in and regularly attending a secondary
12 school or is a full-time student at an accredited college or
13 university.

14 (b) As used in this section, "public safety employee" means a
15 full-time firefighter, police officer, county police officer, or sheriff.

16 (c) This section applies only to local unit public employers and their
17 public safety employees.



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(d) A local unit public employer may provide programs of group health insurance for its active and retired public safety employees through one (1) of the following methods:

- (1) By purchasing policies of group insurance.
- (2) By establishing self-insurance programs.
- (3) By electing to participate in the local unit group of local units that offer the state employee health plan under section 6.6 of this chapter.

A local unit public employer may provide programs of group insurance other than group health insurance for the local unit public employer's active and retired public safety employees by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(e) A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance.

(f) A local unit public employer may not cancel an insurance contract under this section during the policy term of the contract.

(g) After June 30, 1989, a local unit public employer that provides a group health insurance program for its active public safety employees shall also provide a group health insurance program to the following persons:

- (1) Retired public safety employees.
- (2) Public safety employees who are receiving disability benefits under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, or IC 36-8-10.
- (3) Surviving spouses and dependents of public safety employees who die while in active service or after retirement.

(h) A retired or disabled public safety employee who is eligible for group health insurance coverage under subsection (g)(1) or (g)(2):

- (1) may elect to have the person's spouse, dependents, or spouse and dependents covered under the group health insurance program at the time the person retires or becomes disabled;
- (2) must file a written request for insurance coverage with the employer within ninety (90) days after the person retires or begins receiving disability benefits; and
- (3) must pay an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active public safety employee (however, the employer may elect to pay any part of the person's premiums).

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(i) **Except as provided in section 2.3 of this chapter for a surviving spouse or a dependent of a public safety officer who dies in the line of duty**, a surviving spouse or dependent who is eligible for group health insurance under subsection (g)(3):

- (1) may elect to continue coverage under the group health insurance program after the death of the public safety employee;
- (2) must file a written request for insurance coverage with the employer within ninety (90) days after the death of the public safety employee; and
- (3) must pay the amount that the public safety employee would have been required to pay under this section for coverage selected by the surviving spouse or dependent (however, the employer may elect to pay any part of the surviving spouse's or dependents' premiums).

(j) A retired or disabled public safety employee's eligibility for group health insurance under this section ends on the earlier of the following:

- (1) When the public safety employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.
- (2) When the employer terminates the health insurance program for active public safety employees.

(k) **Except as provided in section 2.3 of this chapter for a surviving spouse of a public safety officer who dies in the line of duty**, a surviving spouse's eligibility for group health insurance under this section ends on the earliest of the following:

- (1) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.
- (2) When the unit providing the insurance terminates the health insurance program for active public safety employees.
- (3) The date of the surviving spouse's remarriage.
- (4) When health insurance becomes available to the surviving spouse through employment.

(l) **Except as provided in section 2.3 of this chapter for a dependent of a public safety officer who dies in the line of duty**, a dependent's eligibility for group health insurance under this section ends on the earliest of the following:

- (1) When the dependent becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.
- (2) When the unit providing the insurance terminates the health insurance program for active public safety employees.
- (3) When the dependent no longer meets the criteria set forth in subsection (a).

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(4) When health insurance becomes available to the dependent through employment.

(m) A public safety employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not covered by subsections (g) through (l) and may provide group health insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than required by subsection (m), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 2. IC 5-10-8-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.3. (a) As used in this section, "dependent" means a natural child, stepchild, or adopted child of a public safety officer who:**

- (1) is less than eighteen (18) years of age;**
- (2) is eighteen (18) years of age or older and physically or mentally disabled (using disability guidelines established by the federal Social Security Administration); or**
- (3) is at least eighteen (18) and less than twenty-three (23) years of age and is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university.**

(b) As used in this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that a public safety officer, in the public safety officer's capacity as a public safety officer, is obligated or authorized by rule, regulation, condition of employment or service, or law to perform in the course of:

- (1) controlling or reducing crime;**
- (2) enforcing the criminal law;**
- (3) maintaining custody and physical restraint of prisoners or an inmate of a prison, a jail, or other criminal detention**



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1 facility; or

2 (4) traveling to or working at the scene of an accident, a fire,
3 or other rescue or public safety operation or in an emergency
4 recovery vehicle or public safety vehicle.

5 For purposes of a public safety officer who is an employee (as
6 defined in IC 5-10-13-2), the term includes a death presumed
7 incurred in the line of duty under IC 5-10-13.

8 (c) As used in this section, "public safety officer" means any of
9 the following:

10 (1) A member of a fire department (as defined in IC 36-8-1-8).

11 (2) A member of a police department (as defined in
12 IC 36-8-1-9).

13 (3) A state police officer.

14 (4) A county sheriff.

15 (5) A county police officer.

16 (6) A correctional officer (as defined in IC 5-10-10-1.5).

17 (7) An excise police officer.

18 (8) A county police reserve officer.

19 (9) A city police reserve officer.

20 (10) A conservation enforcement officer.

21 (11) A town marshal.

22 (12) A deputy town marshal.

23 (13) A probation officer.

24 (14) A state university police officer appointed under
25 IC 20-12-3.5.

26 (15) An emergency medical services provider (as defined in
27 IC 16-41-10-1) who is:

28 (A) employed by a political subdivision (as defined in
29 IC 36-1-2-13); and

30 (B) not eligible for a special death benefit under
31 IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

32 (d) This section applies to each child who is a dependent and the
33 surviving spouse of a public safety officer who dies in the line of
34 duty before, on, or after June 30, 2003.

35 (e) Notwithstanding other provisions of this chapter, a public
36 employer of a public safety officer who dies in the line of duty shall
37 provide and pay for health insurance coverage for the public safety
38 officer's:

39 (1) surviving spouse; and

40 (2) each child who is a dependent, until the child no longer
41 meets the criteria in subsection (a).

42 (f) If health insurance coverage is offered by a public employer

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1 to its active public safety officers under this chapter or otherwise,
 2 the health insurance provided to a surviving spouse and each child
 3 who is a dependent under this section must be equal in coverage to
 4 the health insurance offered to active public safety officers.

5 SECTION 3. IC 5-10-8-6 IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The state police department,
 7 conservation officers of the department of natural resources, and the
 8 state excise police may establish common and unified plans of
 9 self-insurance for their employees, including retired employees, as
 10 separate entities of state government. These plans may be administered
 11 by a private agency, business firm, limited liability company, or
 12 corporation.

13 (b) The state agencies listed in subsection (a) may not pay as the
 14 employer portion of benefits for any employee or retiree an amount
 15 greater than that paid for other state employees for group insurance.

16 (c) **Notwithstanding other provisions of this chapter, the state**
 17 **agencies listed in subsection (a) shall provide and pay for the**
 18 **coverage required under section 2.3 of this chapter.**

19 SECTION 4. IC 11-8-2-8, AS AMENDED BY P.L.25-2000,
 20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2003]: Sec. 8. (a) All officers and employees of the
 22 department, with the exception of the members of the board, members
 23 of the parole board, the commissioner, any deputy commissioner, and
 24 any superintendent, are within the scope of IC 4-15-2.

25 (b) IC 11-10-5 applies to teachers employed under that chapter,
 26 notwithstanding IC 4-15-2.

27 (c) The department shall cooperate with the state personnel
 28 department in establishing minimum qualification standards for
 29 employees of the department and in establishing a system of personnel
 30 recruitment, selection, employment, and distribution.

31 (d) The department shall conduct training programs designed to
 32 equip employees for duty in its facilities and programs and raise their
 33 level of performance. Training programs conducted by the department
 34 need not be limited to inservice training. They may include
 35 preemployment training, internship programs, and scholarship
 36 programs in cooperation with appropriate agencies. When funds are
 37 appropriated, the department may provide educational stipends or
 38 tuition reimbursement in such amounts and under such conditions as
 39 may be determined by the department and the personnel division.

40 (e) The department shall conduct a training program on cultural
 41 diversity awareness that must be a required course for each employee
 42 of the department who has contact with incarcerated persons.



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(f) The department shall establish a correctional officer training program with a curriculum, and administration by agencies, to be determined by the commissioner. A certificate of completion shall be issued to any person satisfactorily completing the training program. A certificate may also be issued to any person who has received training in another jurisdiction if the commissioner determines that the training was at least equivalent to the training program maintained under this subsection.

(g) Notwithstanding other statutes, the department shall provide and pay for the coverage required by IC 5-10-8-2.3.

SECTION 5. IC 11-12-4-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. Notwithstanding other statutes, the board shall provide and pay for the coverage required by IC 5-10-8-2.3.**

SECTION 6. IC 20-12-3.5-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. Notwithstanding other statutes, the appointing governing boards listed in section 1 of this chapter shall provide and pay for the coverage required under IC 5-10-8-2.3.**

SECTION 7. IC 36-5-7-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. Notwithstanding other statutes, the legislative body shall provide and pay for the coverage required under IC 5-10-8-2.3.**

SECTION 8. IC 36-8-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) This section applies to counties and towns as well as cities.

(b) A unit may provide by ordinance for any number of police reserve officers.

(c) Police reserve officers shall be appointed by the same authority that appoints regular members of the department.

(d) Police reserve officers may be designated by another name specified by ordinance.

(e) Police reserve officers may not be members of the regular police department but have all of the same police powers as regular members, except as limited by the rules of the department. Each department may adopt rules to limit the authority of police reserve officers.

(f) To the extent that money is appropriated for a purpose listed in this subsection, police reserve officers may receive any of the following:

(1) A uniform allowance.

(2) Compensation for time lost from other employment because

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of court appearances.

(3) Insurance for life, accident, and sickness coverage.

(4) In the case of county police reserve officers, compensation for lake patrol duties that the county sheriff assigns and approves for compensation.

(g) Police reserve officers are not eligible to participate in any pension program provided for regular members of the department.

(h) A police reserve officer may not be appointed until he has completed the training and probationary period specified by rules of the department.

(i) A police reserve officer appointed by the department after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the police reserve officer successfully completes a pre-basic course under IC 5-2-1-9(f).

(j) A police reserve officer may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

(k) A police reserve officer carrying out lake patrol duties under this chapter is immune from liability under IC 34-30-12, notwithstanding the payment of compensation to the officer.

(l) Notwithstanding other statutes, a unit shall provide and pay for the coverage required under IC 5-10-8-2.3.

SECTION 9. IC 36-8-6-9.7, AS ADDED BY P.L.118-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.7. (a) This section applies to a member who died in the line of duty (as defined in section 10.1 of this chapter) before September 1, 1982.

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) Except as otherwise provided in this subsection, a payment shall

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also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (b) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service. This maximum benefit is equal to fifty percent (50%) of the salary of a first class patrolman in the police department plus, for a member who retired before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service of the retired member over twenty (20) years or, for a member who retires after December 31, 1985, plus one percent (1%) of the first class patrolman's salary for each six (6) months of service of the retired member over twenty (20) years. However, the maximum benefit may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

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1 **(f) Notwithstanding other statutes, the local board shall provide**
 2 **and pay for the coverage required under IC 5-10-8-2.3.**

3 SECTION 10. IC 36-8-6-10.1, AS AMENDED BY P.L.185-2002,
 4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2003]: Sec. 10.1. (a) This section applies to a member who
 6 dies in the line of duty after August 31, 1982.

7 (b) The surviving spouse is entitled to a monthly benefit, during the
 8 spouse's lifetime, equal to the benefit to which the member would have
 9 been entitled on the date of the member's death, but no less than fifty
 10 percent (50%) of the monthly wage received by a first class patrolman.
 11 If the surviving spouse remarried before September 1, 1983, and
 12 benefits ceased on the date of remarriage, the benefits for the surviving
 13 spouse shall be reinstated on July 1, 1997, and continue during the life
 14 of the surviving spouse.

15 (c) A payment shall also be made to each child of a deceased
 16 member less than eighteen (18) years of age, in an amount fixed by
 17 ordinance, but at least an amount equal to twenty percent (20%) of the
 18 monthly pay of a first class patrolman per month to each child:

- 19 (1) until the child becomes eighteen (18) years of age;
- 20 (2) until the child becomes twenty-three (23) years of age if the
- 21 child is enrolled in and regularly attending a secondary school or
- 22 is a full-time student at an accredited college or university; or
- 23 (3) during the entire period of the child's physical or mental
- 24 disability;

25 whichever period is longer.

26 (d) The surviving children of the deceased member who are eligible
 27 to receive a benefit under subsection (c) may receive an additional
 28 benefit in an amount fixed by ordinance, but the total additional benefit
 29 under this subsection to all the member's children may not exceed a
 30 total of thirty percent (30%) of the monthly wage received by a first
 31 class patrolman. However, this limitation does not apply to the children
 32 of a member who are physically or mentally disabled.

33 (e) If a deceased member leaves no surviving spouse and no child
 34 who qualifies for benefits under subsection (c) but does leave a
 35 dependent parent or parents, an amount equal to twenty percent (20%)
 36 of the monthly pay of a first class patrolman per month from the time
 37 of the member's death shall be paid to the dependent parent or parents
 38 during their dependency. When both parents survive, the total amount
 39 is still twenty percent (20%), to be paid to them jointly. In all cases of
 40 payment to a dependent relative of a deceased member, the board is the
 41 final judge of the question of necessity and dependency and of the
 42 amount to be paid. The board may also reduce or terminate temporarily

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1 or permanently a payment to a dependent relative of a deceased
 2 member when it determines that the condition of the fund or other
 3 circumstances make this action necessary.

4 (f) If the salary of a first class patrolman is increased or decreased,
 5 the pension payable under this section shall be proportionately
 6 increased or decreased. However, the monthly pension payable to a
 7 member or survivor may not be reduced below the amount of the first
 8 full monthly pension received by that person.

9 (g) For purposes of this section, "dies in the line of duty" means
 10 death that occurs as a direct result of personal injury or illness caused
 11 by incident, accident, or violence that results from any action that the
 12 member in the member's capacity as a police officer:

13 (1) is obligated or authorized by rule, regulation, condition of
 14 employment or service, or law to perform; or

15 (2) performs in the course of controlling or reducing crime or
 16 enforcing the criminal law.

17 The term includes a death presumed incurred in the line of duty under
 18 IC 5-10-13.

19 **(h) Notwithstanding other statutes, the local board shall provide**
 20 **and pay for the coverage required under IC 5-10-8-2.3.**

21 SECTION 11. IC 36-8-7-12.3, AS ADDED BY P.L.118-2000,
 22 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2003]: Sec. 12.3. (a) This section applies to a member who
 24 died in the line of duty (as defined in section 12.4 of this chapter)
 25 before September 1, 1982.

26 (b) If a member of the fire department or a retired member of the
 27 1937 fund dies and leaves:

28 (1) a surviving spouse;

29 (2) a child or children less than eighteen (18) years of age;

30 (3) a child or children at least eighteen (18) years of age who are
 31 mentally or physically incapacitated; or

32 (4) a child or children less than twenty-three (23) years of age
 33 who are:

34 (A) enrolled in and regularly attending a secondary school; or

35 (B) full-time students at an accredited college or university;

36 the local board shall authorize the payment to the surviving spouse and
 37 to the child or children of the amount from the fund as prescribed by
 38 this section. If the surviving spouse of a deceased member remarried
 39 before September 1, 1983, and pension benefits ceased on the date of
 40 remarriage, the benefits for the surviving spouse shall be reinstated on
 41 July 1, 1997, and continue during the life of the surviving spouse. If the
 42 pension of the surviving spouse of a deceased member has ceased by

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1 virtue of the spouse's remarriage, and if the person to whom the spouse
 2 has remarried was a retired member of the fire department who was
 3 also entitled to a pension, then upon the death of the member to whom
 4 the spouse had remarried, the spouse is entitled to receive a pension as
 5 the surviving spouse of a deceased member as though the spouse had
 6 not been remarried.

7 (c) If a deceased member of the fire department leaves no surviving
 8 spouse or children but leaves a dependent parent, and upon satisfactory
 9 proof that the parent was wholly dependent upon the deceased member,
 10 the local board shall authorize the monthly payment to the parent from
 11 the 1937 fund that is prescribed by this section.

12 (d) If a member dies while in active service:

13 (1) the surviving spouse is entitled to receive an amount fixed by
 14 ordinance but not less than thirty percent (30%) of the salary of a
 15 fully paid first class firefighter in the unit at the time of the
 16 payment of the pension;

17 (2) the member's children who are:

18 (A) less than eighteen (18) years of age; or

19 (B) less than twenty-three (23) years of age if the children are
 20 enrolled in and regularly attending a secondary school or are
 21 full-time students at an accredited college or university;
 22 are each entitled to receive an amount fixed by ordinance but not
 23 less than twenty percent (20%) of the salary of a fully paid first
 24 class firefighter in the unit at the time of the payment of the
 25 pension; and

26 (3) each parent of a deceased member who was eligible for a
 27 pension is entitled to receive jointly an amount equal to thirty
 28 percent (30%) of the salary of a fully paid first class firefighter in
 29 the unit at the time of the payment of the pension.

30 If the local board finds upon the submission of satisfactory proof that
 31 a child eighteen (18) years of age or older is mentally or physically
 32 incapacitated, is not a ward of the state, and is not receiving a benefit
 33 under subdivision (2)(B), the child is entitled to receive the same
 34 amount as is paid to the surviving spouse of a deceased firefighter as
 35 long as the mental or physical incapacity continues. A sum paid for the
 36 benefit of a child or children shall be paid to the remaining parent, if
 37 alive, as long as the child or children reside with and are supported by
 38 the parent. If the parent dies, the sum shall be paid to the lawful
 39 guardian of the child or children.

40 (e) The monthly pension payable to a survivor may not be reduced
 41 below the amount of the first full monthly pension received by that
 42 person.

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1 (f) A benefit payable under this section shall be paid in not less than
2 twelve (12) monthly installments.

3 **(g) Notwithstanding other statutes, the local board shall provide**
4 **and pay for the coverage required under IC 5-10-8-2.3.**

5 SECTION 12. IC 36-8-7-12.4, AS AMENDED BY P.L.185-2002,
6 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2003]: Sec. 12.4. (a) This section applies to an active member
8 who dies in the line of duty after August 31, 1982.

9 (b) If a member dies in the line of duty after August 31, 1982, the
10 surviving spouse is entitled to a monthly benefit, during the spouse's
11 lifetime, equal to the benefit to which the member would have been
12 entitled on the date of the member's death, but not less than fifty
13 percent (50%) of the monthly wage received by a fully paid first class
14 firefighter. If the spouse remarried before September 1, 1983, and
15 benefits ceased on the date of remarriage, the benefits for the surviving
16 spouse shall be reinstated on July 1, 1997, and continue during the life
17 of the surviving spouse. If the pension of the surviving spouse of a
18 deceased member has ceased by virtue of the spouse's remarriage, and
19 if the person to whom the spouse has remarried was a retired member
20 of the fire department who was also entitled to a pension, then upon the
21 death of the member to whom the spouse had remarried, the spouse is
22 entitled to receive a pension as the surviving spouse of a deceased
23 member as though the spouse had not been remarried.

24 (c) If a member dies while in active service, the member's children
25 who are:

26 (1) less than eighteen (18) years of age; or
27 (2) less than twenty-three (23) years of age if the children are
28 enrolled in and regularly attending a secondary school or are
29 full-time students at an accredited college or university;
30 are each entitled to receive an amount fixed by ordinance but not less
31 than twenty percent (20%) of the salary of a fully paid first class
32 firefighter in the unit at the time of the payment of the pension.

33 (d) The surviving children of the deceased member who are eligible
34 to receive a benefit under subsection (c) may receive an additional
35 benefit in an amount fixed by ordinance, but the total additional benefit
36 under this subsection to all the member's children may not exceed a
37 total of thirty percent (30%) of the monthly wage received by a first
38 class firefighter. However, this limitation does not apply to the children
39 of a member who are physically or mentally disabled.

40 (e) If a deceased member of the fire department leaves no surviving
41 spouse or children but leaves a dependent parent, and upon satisfactory
42 proof that the parent was wholly dependent upon the deceased member,

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the local board shall authorize the monthly payment to the parent from the 1937 fund. Each parent of a deceased member who was eligible for a pension under this subsection is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(f) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a firefighter:

(1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(g) If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subsection (c)(2), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(h) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(i) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(j) Notwithstanding other statutes, the local board shall provide and pay for the coverage required under IC 5-10-8-2.3.

SECTION 13. IC 36-8-7.5-13.7, AS AMENDED BY P.L.1-2001, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13.7. (a) This section applies to a member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.

(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) and payable in monthly installments, to the surviving spouse of a member. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits

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1 ceased on the date of remarriage. If a member of the fund died, but not
 2 in the line of duty, and the member's surviving spouse remarried before
 3 September 1, 1983, the benefits of the surviving spouse shall be
 4 reinstated on July 1, 1997, and continue during the life of the surviving
 5 spouse.

6 (c) The 1953 fund shall also be used to pay an annuity equal to
 7 twenty percent (20%) of the salary of a first class patrolman on the
 8 police department, computed as provided in section 12(b) of this
 9 chapter and payable in monthly installments, to each dependent child
 10 of a member of the fund who dies from any cause while in the actual
 11 discharge of duties as a police officer. The pension to each child
 12 continues:

- 13 (1) until the child becomes eighteen (18) years of age;
- 14 (2) until the child becomes twenty-three (23) years of age if the
 15 child is enrolled in and regularly attending a secondary school or
 16 is a full-time student at an accredited college or university; or
- 17 (3) during the entire period of the child's physical or mental
 18 disability;

19 whichever period is longest. However, the pension to the child ceases
 20 if the child marries or is legally adopted by any person.

21 (d) If a deceased member leaves no surviving spouse and no child
 22 who qualifies for a benefit under subsection (c) but does leave a
 23 dependent parent or parents, the 1953 fund shall be used to pay an
 24 annuity not greater than a sum equal to twenty percent (20%) of the
 25 salary of a first class patrolman on the police department, computed
 26 and payable as provided in section 12(b) of this chapter, payable
 27 monthly to the dependent parent or parents of a member of the police
 28 department. The annuity continues for the remainder of the life or lives
 29 of the parent or parents as long as either or both fail to have sufficient
 30 other income for their proper care, maintenance, and support.

31 (e) In all cases of payment to a dependent relative of a deceased
 32 member, the local board is the final judge of the question of necessity
 33 and dependency and of the amount within the stated limits to be paid.
 34 The local board may also reduce or terminate temporarily or
 35 permanently a payment to a dependent relative of a deceased member
 36 when it determines that the condition of the 1953 fund or other
 37 circumstances make this action necessary.

38 (f) If the salary of a first class patrolman is increased or decreased,
 39 the pension payable under this section shall be proportionately
 40 increased or decreased. However, the monthly pension payable to a
 41 member or survivor may not be reduced below the amount of the first
 42 full monthly pension received by that person.

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(g) The annuity payable under subsection (b) equals thirty percent (30%) of the salary of a first class patrolman. The amount provided in this subsection is subject to adjustment as provided in subsection (f).

(h) Notwithstanding other statutes, the local board shall provide and pay for the coverage required under IC 5-10-8-2.3.

SECTION 14. IC 36-8-7.5-14.1, AS AMENDED BY P.L.185-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.1. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department dies in the line of duty after August 31, 1982, and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total benefit to all the member's children under this subsection may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who are physically or mentally disabled.



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(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause while in the actual discharge of duties as a police officer. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(h) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a police officer:

- (1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (2) performs in the course of controlling or reducing crime or enforcing the criminal law.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(i) Notwithstanding other statutes, the local board shall provide and pay for the coverage required under IC 5-10-8-2.3.

SECTION 15. IC 36-8-8-13.9, AS ADDED BY P.L.118-2000, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13.9. (a) This section applies to an active member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.

(b) Except as otherwise provided in this subsection, if a fund

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member dies in the line of duty, the following apply:

(1) Each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(c) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit under subsection (b) is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

(d) Notwithstanding other statutes, the board shall provide and

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pay for the coverage required under IC 5-10-8-2.3.

SECTION 16. IC 36-8-8-14.1, AS AMENDED BY P.L.185-2002, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(1) until the child reaches eighteen (18) years of age; or

(2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit

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during the parent's or parents' lifetime.

(f) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years old, the benefit is computed as if the member:

- (1) did have twenty (20) years of service; and
- (2) was fifty-two (52) years of age.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from:

- (1) any action that the member, in the member's capacity as a police officer:

- (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

- (B) performs in the course of controlling or reducing crime or enforcing the criminal law; or

- (2) any action that the member, in the member's capacity as a firefighter:

- (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

- (B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) Notwithstanding other statutes, the board shall provide and pay for the coverage required under IC 5-10-8-2.3.

SECTION 17. IC 36-8-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) The department may establish and operate a dependent's pension benefit for the payment of pensions to dependent parents, surviving spouses, and dependent children under eighteen (18) years of age of former employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining appropriate insurance coverage, or both. However, the department may not establish or modify a dependent's pension benefit after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any dependent's pension benefits that were in effect on January 1, 1989.

(b) This subsection applies to survivors of employee beneficiaries who:

- (1) died before January 1, 1990; and
- (2) were covered by a benefit plan established under this section.

The maximum monthly pension payable to dependent parents or surviving spouses may not exceed two hundred dollars (\$200) per



1 month during the parent's or the spouse's lifetime if the spouse did not
2 remarry before September 1, 1984. If the surviving spouse remarried
3 before September 1, 1984, benefits ceased on the date of remarriage.
4 The maximum monthly pension payable to dependent children is thirty
5 dollars (\$30) per child and ceases with the last payment before
6 attaining eighteen (18) years of age.

7 (c) This subsection applies to survivors of employee beneficiaries
8 who:

9 (1) died after December 31, 1989; and

10 (2) were covered by a benefit plan established under this section.

11 The monthly pension payable to dependent parents or surviving
12 spouses must be not less than two hundred dollars (\$200) for each
13 month during the parent's or the spouse's lifetime or until the spouse
14 remarries. The monthly pension payable to each dependent child must
15 be not less than thirty dollars (\$30) for each child and ceases with the
16 last payment before attaining eighteen (18) years of age.

17 (d) The county fiscal body may by ordinance provide an increase in
18 the monthly pension of survivors of employee beneficiaries who die
19 before January 1, 1990. However, the monthly pension that is provided
20 under this subsection may not exceed the monthly pension that is
21 provided to survivors whose monthly pensions are determined under
22 subsection (c).

23 (e) In order to be eligible for a benefit under this section, the
24 surviving spouse of an employee beneficiary who dies after August 31,
25 1984, must have been married to the employee beneficiary at the time
26 of the employee's retirement or death in service.

27 **(f) Notwithstanding other statutes, the department shall provide**
28 **and pay for the coverage required under IC 5-10-8-2.3.**

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